



Warringah Council

DEVELOPMENT ASSESSMENT REPORT

Assessment Officer:	Lashta Haidari
Address / Property	Lot 15 DP 11438 & Lot 16 DP 11438, 2 Carawa Road, Cromer.
Description:	Mixed use development comprising residential and commercial units, basement carparking, landscaping and ancillary site works.
Development Application No:	DA2008/1704
Application Lodged:	10/12/2008
Plans Reference:	DA01-23-06, DA02-23-06, DA03-23-06, DA04-23-06, DA05-23-06, DA06-23-06, all issue D, dated 5 December 2006, prepared by Carroll Consulting Practice Pty Ltd.
Amended Plans:	YES – Stormwater Plans
Applicant:	Carroll Consulting Practice Pty Ltd
Owner:	Anthony Cirillo
Locality:	E2 Dee Why Lagoon Suburbs
Category:	Category 1- Housing (not on the ground floor) and the retail tenancies being shops, business premises and restaurants. Category 2 – Housing (on the ground floor)
Variations to Controls (Clause 20):	YES – Building Height
Referred to ADP:	NO
Referred to WDAP:	NO
Land and Environment Court Action:	NO
SUMMARY	
Submissions:	One (1) submission received
Submission Issues:	Excessive building bulk and scale compared to surrounding development, increased traffic and lack of parking, acoustic impact, and damage to adjoining properties as result of the excavation.
Assessment Issues:	Desired Future Character, Building Height, SEPP 55, SEPP 65, Clause 39 Local Retail Centre, and public submission.



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Recommendation:

Approval – subject to conditions

Attachments:

None

LOCALITY PLAN (not to scale)



Subject Site:

Lot 15, DP 11438 & Lot 16, DP 11438, 2 Carawa Road Cromer.

Public Exhibition:

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan (adopted 13 December 2005). As a result, the application was notified to 19 adjoining land owners and occupiers for a period of 30 calendar days commencing on 2/01/2009 and being finalised on 3/02/2009, furthermore, the application has been advertised within the Manly Daily on 3/01/2009 and a notice was placed upon the site.



SITE DESCRIPTION

The subject site is identified as Lots 15 and 16 within DP 11438 and is known as No.2 Carawa Road, Cromer. The subject site is located on the north western corner of the intersection of Carawa Road and Fisher Road North and contains a total site area of 1,406.2sqm. The subject site has a frontage to both Carawa Road and Fisher Road North.

The site irregular in shape and is relatively flat, the site falls towards the northern corner of the site. The sites topography is similar to adjacent properties to the north-west and partly lower than the property to the west.

The property was previously used as a service station and associated mechanical repairs workshop. The site is currently vacant and there is no vegetation on this site.

The area surrounding the subject site is dominated by residential and recreational land uses. The majority of the residential development comprises single, detached dwellings and the environmental context of the site is formed by the public recreation facilities immediately opposite the subject site. Cromer Park is located immediately north – east of the site and James Morgan reserve is located to the south – east in Carawa Road.

SITE HISTORY

A pervious Development Application DA2008/0254 for the construction of a mixed use development comprising 11 residential units, 2 retail premises, and 2 offices with the basement carparking for 27 vehicles was refused by Council on the 23 June 2008 for the following reasons:

1. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is not consistent with the Desired Future Character Statement of the E2 Dee Why Lagoon Locality.*
2. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the proposed development is does not comply Building Height control for the E2 Dee Why Lagoon Locality.*
3. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following General Principles of Warringah Local Environmental Plan 2000;*
 - *Clause 39 Local Retail Centre*
 - *Clause 76 Management of stormwater*
 - *Clause 48 Potentially contaminated land*
 - *Clause 49 Remediation of contaminated land*
 - *Clause 51 Front Fences and Walls*
 - *Clause 65 Visual Privacy*
 - *Clause 66 Building bulk*
 - *Clause 69 Accessibility – Public and Semi-Public Buildings*
 - *Clause 76 Management of stormwater*



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4. *Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 insufficient information has been submitted to demonstrate that the land will be suitable in its contaminated state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out as required by State Environmental Planning Policy No.55 – Remediation of Land and Clauses 48 and 49 of Warringah Local Environmental Plan 2000.*
5. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following Principles in Clause 15 of State Environmental Planning Policy No.65;*
 - *Principle No. 1: Context;*
 - *Principle No.2 Scale;*
 - *Principle No.3 Built Form;*
 - *Principle No.4 Density;*
 - *Principle No.6 Landscape; and*
 - *Principle No.7 Amenity;*
6. *Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the following “Rules of Thumb” under the Residential Flat Design Code, as adopted by State Environmental Planning Policy No.65 – Design Quality of Residential Flat Buildings;*
 - a. *Street Setbacks*
 - b. *Side and Rear Setback*
 - c. *Visual Privacy; and*
 - d. *Daylight Access*
7. *Council does not have sufficient information to determine if Dewatering Licence is required in accordance with Part v of the water Act 1912, which is integrated development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979.*

The proposal as submitted under this application was amended to reduce the number of units from 11 to 9, increased setbacks, increased landscaping and the lowering of part of the building.

PROPOSED DEVELOPMENT

The proposal seeks approval for the construction of a mixed use development comprising nine (9) residential units, two (2) retail premises, two (2) offices premises and a basement carpark for 27 vehicles.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulations 2000
- a) Disability Discrimination Act 1992 (and associated Regulations);
- c) State Environmental Planning Policy No. 55 – Remediation of Land
- d) SEPP No. 65 - Design Quality of Residential Flat Development
- e) SEPP (Building Sustainability Index: BASIX) 2004
- f) SEPP Infrastructure



- g) Warringah Local Environment Plan 2000
- h) Warringah Development Control Plan
- i) Draft Environmental Planning Instruments
- j) Section 94A Development Contributions Plan

LAND AND ENVIRONMENT COURT ACTION

Council has not been advised of any court action in relation to this matter.

REFERRALS

External Referrals

Department of Water and Energy

The proposal was identified as being integrated development in accordance with Section 91 of the Environmental Planning and Assessment Act 1979 as the Geotechnical Report submitted with the application indicated that dewatering will be necessary during construction of the basement carpark and therefore a Dewatering Licence would be required pursuant to the Water Act 1912. The Department of Water and Energy (DWE) is the approval body for Dewatering Licenses. The application was referred to the Department of Water and Energy and the following advice was received:

“The Department has determined that a Licence under Part V of the Water Act 1912 is required in relation to this development. The enclosed attachment is the Department’s General Terms of Approval (GTA s). They are the conditions under which the Department would, in principle, accept the proposed development activity”.

All the recommended conditions by the Department of Water and Energy have been incorporated into the draft consent.

Internal Referrals

Development Engineers

Council’s Development Engineers have reviewed the plans and requested additional details on a number of occasions. The plans have been amended to comply with all Council’s engineering requirements. Council’s Development Engineers raised no objection to the latest version of the stormwater plans, subject to a number of conditions being included on the consent.

All recommended conditions have been included on the consent, with the exception of those conditions which relate to dewatering as they will be replaced with the requirements of the Department of Water and Energy.

Landscape Assessment

Council’s Landscape Officer has reviewed the proposal and has raised no objection to the landscape component of the development, subject to several conditions being included on the consent. All recommended conditions have been included on the draft consent.

Waste Services



Council's Waste Services Officer has advised that the waste management facilities for both the residential and commercial components of the development are suitable for Council's waste collection service.

Traffic Engineer

Council's Traffic Engineer has reviewed the proposed development and has provided the following comments:

"I generally concur with the traffic and parking report by TMPC Pty Ltd. Accordingly there are no objections to the proposal subject to the following condition.

An application for a work zone in Carawa Road in front of the site is to be lodged for Council's consideration and approval. (The provision of a work zone will require approval from Warringah Traffic Committee. Applications for work zones are available from Customer Service and should be lodged at least 4 weeks prior to work commencing)".

The above recommended condition is incorporated into the draft consent.

Environment and Health Protection

Council's Environmental Health officer has reviewed the proposal and has raised no objection to the proposal subject to several conditions being included on the consent. All the recommended conditions have been included on the draft consent.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application was publicly exhibited between 2/01/2009 to 3/02/2009 in accordance with the EPA Regulation 2000 and the applicable Development Control Plan. The application was also advertised in Manly Daily on 03/01/2009. As a result the application was notified to 19 adjoining owners and occupiers. The properties notified were consistent with the notification list and plan.

As a result of the above public exhibition process Council received One (1) written submission from the following resident.

Name	Address
Rhonda Wood	193A Fisher Road, North Cromer

The issues raised in the submission and the manner which they have been addressed are as follows:

Excessive building bulk and scale compared to surrounding development

Comment: Concern is raised that the visual appearance of the building will be excessive in comparison to surrounding development.

The visual impact of the building on the streetscape is considered in more detail under the DFC and the 'General Principles of Development Control' table of this report. In summary, the scale of the proposed building is assessed as being suitable and compatible with the E2 locality and therefore the concern raised in relation bulk and scale of the building does not warrant the refusal or modification of the application.

Insufficient carparking & traffic issues

Concern has been raised in relation to the increased traffic as result of the proposed development and the lack of carparking provided for the development.

Comment: This issue relating to the carparking is addressed in detail under Clause 74 of this report. In summary, the proposal is satisfactory in relation to the number of carparking spaces.

The traffic situation for the subject site has been the subject of assessment by the applicant's traffic consultant. The report concludes that the proposed development will not have significant parking and traffic impact in the area and this has been concurred with by Council's Traffic Engineer. Therefore, this objection is noted but not considered to warrant the refusal of the application.

Acoustic impact

Concern has been raised in relation to the acoustic impact as result of the excavation and construction process.

Comment - The acoustic impact of the proposal on nearby residential properties has been addressed under 'Clause 43 Noise' in the General Principles of Development Control table of this report and subject to suitable conditions to control noise emissions, the noise impact of the proposed development is considered acceptable. Therefore, this objection is addressed by way of conditions.

Damage to adjoining properties

Concern has been raised that the excavation proposed for the basement parking level will impact on the stability of the adjoining property.

Comment - Conditions have been imposed requiring the submission of a dilapidation report on adjoining properties to ensure the condition of structures on adjacent lands is recorded and that a geotechnical engineers report addressing excavation and construction methodology to protect adjacent properties is prepared prior to the issuing of a Construction Certificate. Therefore, this submission is noted and addressed through the imposition of a condition.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979 are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "SEPP 55", "SEPP 65", "SEPP BASIX", "SEPP Infrastructure" and "WLEP 2000" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable to this development.
Section 79C (1) (a)(iii) – Provisions of any development control plan	The application was advertised and notified in accordance with Warringah Development Control Plan.
Section 79C (1) (a)(iiia) - Provisions of any Planning Agreement or Draft Planning Agreement	None applicable.



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Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iv) - Provisions of the regulations	Clause 98 of the EP&A Regulation 2000 states that a prescribed condition of consent is that the work is to be undertaken in accordance with the Building Code of Australia. A BCA Preliminary Report has been submitted with the application. The Report concludes that the building can readily achieve compliance with the provisions of the BCA 2008. A condition has been included in the recommendation to ensure that the proposal complies with the BCA. Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. A design verification certificate has been submitted with the application.
Section 79C (1) (b) – The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed in detail under the General Principles of Development Control section in this report and are found to be acceptable and reasonable. (ii) The proposed development will not have a detrimental social impact in the locality considering the mixed residential/commercial character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the proposed land use.
Section 79C (1) (c) – The suitability of the site for the development	The site is irregular in shape sited at the corner of two street frontages and adjoins mainly residential development. The site is currently vacant and identified as Local retail centre on Council's LEP. Currently, there is no architectural style of a mixed use development in the immediate locality, where the character of the area is predominantly residential. In recognising, the above site constrains the proposal (as amended) has been design to provide an appropriate built form that response to the opportunities and constraints of the site. Notwithstanding the above, the site does not contain any significant constraints in terms environmental issue and subject to the remediation of the site and provision of adequate drainage it is considered that the site is suitable for the type of use and size and scale of development proposed.
Section 79C (1) (d) – Any submissions made in accordance with the EPA Act or EPA Regs	In regards to public submissions refer to the discussion on "Notification & Submissions" within this report.
Section 79C (1) (e) – The public interest	The public interest is served by providing appropriate land use for the site. The proposed development is in accordance with the planning controls under WLEP 2000 and its ability to provide an appropriate land use within this locality. In this regard, the proposal is satisfactory and hence is consistent with maintaining and protecting the public interest.

SEPP Infrastructure



Clause 45 of SEPP Infrastructure requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- *Within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists);*
- *Immediately adjacent to an electricity substation; or*
- *Within 5m of an exposed overhead electricity power line.*

The previous application relating to this site was referred to Energy Australia to determine if the subject site was within or immediately adjacent to any of the above electricity infrastructure. Energy Australia by letter dated 7 April 2008 stated that the subject site was not affected by any of the above electricity infrastructure. In this regard, the subject application is considered to satisfy the provisions of Clause 45 SEPP Infrastructure.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) applies to the development.

A BASIX Certificate has been submitted with the application. The certificate confirms that the proposed development meets the NSW government's requirements for sustainability. The development meets the water and energy performance targets and achieves a pass for thermal comfort. Conditions have been included on the draft consent to ensure compliance with the commitments listed in the BASIX certificate.

State Environmental Planning Policy No.55 – Remediation of Land

Clause 7(1) (a) of State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55) and Clause 48 of WLEP 2000 state that a consent authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out,
- If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.

An 'Environmental Site Investigation and Remedial Action Plan' Ref: ENVIRHOD00164CA-R01 prepared by Coffey Environment's dated 15 August 2008 was submitted with the application.

The report concludes the following;

'Based on the available information, Coffey Environments considers the site to be suitable for the proposed future low density residential land use.

Analysis of the data collected allows an opinion to be expressed based on the absence of concentration of COPX at industry and regulatory authority accepted



levels for the intended future purposes of low density residential. The inherent uncertainty in assessment and remediation of land contamination means that the conditions of parts of the property may be different at intermediate points between sampling locations and depths”.

Council's Environmental Health Officer has reviewed the report prepared by Coffey Environments Pty Ltd and raised no objections subject to conditions of consent being included on the consent to ensure that all required remediation is carried out and validated by an appropriately qualified person.

As the land will be suitable for the proposed development following remediation works, the requirements of SEPP 55 have been addressed.

State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development

SEPP 65 applies to new residential flat buildings, substantial redevelopment/refurbishment of existing residential flat buildings and conversion of an existing building to a residential flat building.

Clause 3 of SEPP 65 defines a residential flat building as follows:

“Residential flat building means a building that comprises or includes:

- (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and*
- (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), but does not include a Class 1a building or a Class 1b building under the Building Code of Australia.”*

The proposed development is for the construction of a 3 storey development which consists of 9 residential units, 2 retail premises, 2 office premises and basement carparking for 27 vehicles.

Clause 50(1A) of the EPA Regulation 2000 requires the submission of a design verification statement from the building designer at lodgement of the development application. This documentation has been submitted.

The SEPP requires the assessment of any development application for residential flat development against 10 principles contained in Clauses 9-18 and Council is required to consider the matters contained in the publication “Residential Flat Design Code”.

As such, the following consideration has been given to the requirements of the SEPP and Design Code:

The 10 principles are outlined as follows:

Principle 1: Context

The provisions of SEPP 65 provide that:

“Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.

Responding to context involves identifying the desirable elements of a location’s current character or, in the case of precincts undergoing a transition, the Desired Future Character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area”.

Comment: The proposed land use is considered appropriate for the site, given the location of the site and its availability of public transport and the limited site constraints.

The development generally complies with all relevant built form controls and general principles of development control therefore the scale of the development is considered to be consistent with the desired future character statement. The proposal’s consistency with the desired future character statement has been considered in detail under ‘Warringah Local Environmental Plan 2000’ in this report.

The development has been designed to mitigate any adverse impacts on the existing adjoining development. Adequate setbacks have been provided for the development to the western and the northwest boundaries to minimise any potential privacy or visual impacts on these properties. The setbacks proposed allow for the provision of large trees and shrubs to provide further visual privacy to the adjoining development.

It is considered that the development has satisfactorily addressed the design objectives of this principle.

Principle 2: Scale

The provisions of SEPP 65 provide that:

“Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.

Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the Desired Future Character of the area”.

Comment: The scale of the development is generally consistent with the relevant built form controls in relation building height and Clause 39 of the General Principles, therefore the scale of the development is consistent with development that has or will be approved under the current planning controls.

The scale of the proposed development is also appropriate given the scale of the existing, approved or potential surrounding development.



The setbacks proposed to the side and rear boundaries also provide an adequate opportunity for landscaping which will assist in creating an appropriate transition between the scale of the development on the subject site and development on surrounding sites.

For these reasons, it is considered that the scale of the proposed development is consistent with this design quality principle.

Principle 3: Built Form

The provisions of SEPP 65 provide that:

“Good design achieves an appropriate Built Form for a site and the building’s purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.

Appropriate Built Form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.”

Comment: The building wraps around the perimeter of the site creating a large area of communal open space in the centre of the development. The communal open space area contributes to a high level of amenity for future occupants as it provides a quality outlook for the units surrounding the courtyard.

The building facade facing Fisher Road North provides for commercial and offices, with the low masonry walls to provide planting and open metal railing over. This contributes to maintaining a “Village like atmosphere”. The landscaping and low walls proposed within the front building setback also further define the public and private domain.

Carawa Road is the secondary road bounding the building site, and the proposal includes residential development at the ground floor in order to fit within the existing streetscape as two storey residential. The facade fronting Carawa Road is totally two storey townhouses style units with their own front gates and gardens, which steps down the hill with the topography of the site.

Overall the building achieves an appropriate built form, having regard to the site’s opportunities. The proposed development proposes an appropriate transitional setback on all boundaries and the buildings defines the public domain and contributes in a positive way to the character of the existing and adjoining streetscape.

The Architect has advised that the built form of the building has been governed by the need to maximise the solar access to as many units as possible.

For the reasons given, the proposal is considered to be consistent with this design quality principle.

Principle 4: Density

The provisions of SEPP 65 provide that:

“Good design has a density appropriate for a site and its context; in terms of floor space yields (or number of units or residents).



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Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality”.

Comment: Council’s density control is based upon the way the proposed development responds to the DFC, built form control in relation to the height of the building, Clause 39 and other General Principles of Development Control.

A total of 9 residential units, 2 retail premises, and 2 office premises are proposed within the building. The building complies with the relevant built form control (with the exception of minor variations to the building height) and the amenity provided for future occupants meets the requirements of the Residential Flat Design Code. The proposed development does not result in any significant impacts on the adjoining development in terms of privacy or solar access. Council’s Traffic Engineer has not raised any concerns with the level of traffic generated by the proposed development. Consistency with all relevant controls indicates that the density of the proposed development is appropriate.

Accordingly, the proposal is considered to be inconsistent with the intent of this principle.

Principle 5 – Resource, energy and water efficiency.

The provisions of SEPP 65 provide that

“Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.

Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and Built Form, passive solar design principles, efficient appliances and mechanical and mechanical services, soil zones for vegetation and reuse of water”.

Comment: This design principle is concerned with environmental sustainability. The proposed construction materials and building design has incorporated passive solar design, insulation and sun protection.

The Architect has provided the following discussion of the measures incorporated into the design to minimise energy and water use.

“Environmentally sustainable design principles have been addressed to provide cross ventilation and good natural light to all apartments, as well as controlled solar access and the provision for collection of rainwater for recycling to toilets and landscape irrigation. In addition the proposal incorporates an open air landscaped Courtyard for the apartments.

All apartments receive more than 3 hour of sunlight during the Winter Solstice plus cross flow natural ventilation”

The proposed development is considered to satisfactorily address this design quality principle.

Principle 6: Landscape

The provisions of SEPP 65 provide that:

“Good design recognises that together Landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain”.

Landscape design builds on the existing site’s natural and cultural features in responsible and creative ways. It enhances the development’s natural environmental performance by co-ordinating water and soil management, solar access, microclimate, and tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character or Desired Future Character.

Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours’ amenity and provide for practical establishment and long-term management.”

Comment: A landscape plan has been submitted with the application that demonstrates that the development will enhance the landscape character of the site and provide a quality landscape setting for the proposed development that will provide a reasonable level of amenity for the occupants of the proposed development and the adjoining properties. The landscaping will also assist in softening the visual impact of the development as viewed from Fisher Road North and Carawa Road.

Council’s Landscape Officer has reviewed the proposal and raises no objections to the proposed landscape design.

For these reasons it is considered that the proposal is consistent with this design quality principle.

Principle 7: Amenity

The provisions of SEPP 65 provide that:

“Good design provides amenity through the physical, spatial and environmental quality of a development.

Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility”.

Comment: The primary emphasis of this design principle is to create a pleasant living space for future occupants, both within dwellings and within the development generally. In this regard, the Architect has provided the following comments regarding the amenity provided to future occupants:

“The proposal will greatly enhance the amenity of the area replacing the former service station and auto repair complex with a welcoming and interesting apartment plus small commercial and retail development, responding to the site advantages and constraints.



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The flexibility of the apartment layouts maximise solar access achieving a minimum 3 hours of sunlight during the Winter Solstice as well as natural cross ventilation. Where possible living spaces are located to take advantage of the sunny northerly aspect as well as the visual link to the central courtyard. Generous balconies and private courtyards are linked to living areas on the north facade. Opaque glazing to balconies and screens to courtyards will provide visual privacy and greater amenity for the apartments.

Five apartments plus the commercial and retail premises have disabled access. A disabled carpark space is provided in the basement carpark and a disabled access toilet with appropriate access is provided at the lower ground floor level..

A large landscaped communal courtyard and complying landscaped setbacks provide a quality outlook from all apartments”.

As discussed in the Architect’s statement above, the development has been designed to maximise solar access to the units within the development. Given the orientation and shape of the site, the ability to achieve a complying level of solar access has required the careful siting of buildings and layout of apartments.

All nine units within the development are dual aspect apartments which will receive natural ventilation.

As a high level of amenity has been provided through the careful siting of buildings and layout of apartments, it is considered that the proposed development is consistent with this design quality principle.

Principle 8 Safety and Security

The provisions of SEPP 65 provide that:

“The building design, separation of residential and retail elements, open space, private central courtyard, carparking access and landscaping maximise casual surveillance and overlooking of common areas.

Secure gated access is provided to the carpark entry plus additional security for the apartment residents. Similarly security access only is provided to the ground floor courtyard

Comment: The proposal is considered to adequately achieve safety and security for future occupants of the development by providing good casual visual surveillance of the street and the private domain, conditions would be recommended should the application be approved to require security lighting within the development.

Accordingly, it is considered that the proposed development is consistent with the intent of safety and security principle.

Principle 9 Social Dimensions

The provisions of SEPP 65 provide that:

“Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.



New developments should optimise the provisions of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community”.

Comment: The Architect has provides the following response to Principle 9 of SEPP 65.

“The proposal provides an opportunity to create high quality medium density housing coupled with small area of retail, meeting the needs of Warringah Council and State Government to increase housing supply and housing choice.

The site has excellent access to public transport within close proximity to the business and commercial Dee Why and Warringah Mall precincts, with their associated employment opportunities.

The retail premises will provide the opportunity for convenience outlets serving both the apartment and surrounding residents”.

The provision of housing on this site will provide accommodation within close proximity to public transport, other commercial facilities within the Dee Why commercial centre, within reasonable walking distance to the beach, public library, Civic Centre and future town square. It is expected that apartments within the proposed development will be more affordable than single dwelling houses that are also available within the locality. In this regard, the comments made by the architect above illustrate the social benefits of the proposal. These comments are concurred with.

Accordingly, the proposal is considered to provide significant social benefit. Therefore, the proposal is considered to satisfy the objectives of this principle.

Principle 10 Aesthetics

The provision of SEPP65 provides that:

“Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the Desired Future Character of the area”.

Comment: The design of the building is compatible with the desired future character of the locality.

The Architect has stated the following;

“The overall design intent is to produce a design that compliments the site and streetscape with the use of well selected material, finishes, textures, colours and landscaping, together with appropriate setbacks to street frontages and boundaries, whilst taking advantage of the topography, solar access and views. It provides easy access for pedestrians and motor vehicles as well as a comfortable environment for the enjoyment of residents plus those occupying the commercial and retail premises”

The proposed colours are considered to be satisfactory and will be consistent with the surrounding development within this locality.

The proposed landscaping works will contribute positively to the streetscape whilst softening the appearance of the built form.

For the above reasons the proposed development is considered to be consistent with this design quality principle.

Residential Flat Design Code Compliance Table

Pursuant to Clause 30(2) of SEPP 65 in determining a development application for a residential flat building the consent authority is to take into consideration the Residential Flat Design Code (RFDC). The following table is an assessment of the proposal against the guidelines provided in the RFDC.

	Guideline	Consistency with Guideline
PART 01 LOCAL CONTEXT		
Primary Development Controls		
<i>Building Height</i>	Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	N/A No FSR controls apply to the proposed development.
	Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	YES The building generally complies with the maximum building height control which applies to the subject site (with exception of minor variation, which is justified and supported elsewhere in the report).
<i>Building Depth</i>	In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18 metres must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	YES The building depth is generally between 10-18 metres. All of the apartments have dual aspect or cross through apartments and therefore adequate natural ventilation has been achieved.



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Building Separation	For buildings up to four storeys / 12 metres, the following distances of separation are suggested; - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres are provided between non-habitable rooms. A habitable room is any room or area used for normal domestic activities, including living, dining, family, lounge, bedrooms, study, kitchen, sun room and play room. A non-habitable room is a space of a specialised nature not occupied frequently or for extended periods, including bathrooms, toilets, pantries, walk in wardrobes, corridors, lobbies, photographic darkrooms and clothes drying rooms. The objectives of the suggested dimensions are to provide visual and acoustic privacy for existing and new residents, control overshadowing, and ensure that new development is scaled to support the desired area character with appropriate massing and spaces between buildings, to allow for the provision of open space and to provide deep soil zones.	Not Applicable to this development.
Street Setbacks	Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.	YES The development provides adequate setback to both street frontages which will allow for adequate landscaping to occur between the proposed development and the streetscape. The Landscape plan submitted with the application indicates trees planting along both street frontages.
	Identify the quality, type and use of gardens and landscaped areas facing the street.	YES A detailed Landscape Plan has been submitted with the application which provides a quality landscaped setting for the building and will provide a high level of amenity for future occupants.
	Test street setbacks with building envelopes and street sections.	YES The proposed development is within Local retail centre and therefore apart from building height control, there are no other built form controls. The setback provided is assessed as being acceptable (see discussion under Clause 39 in this report).
Site + Rear Setbacks	Relate side setbacks to existing streetscape patterns.	YES The setback provided is assessed as being acceptable (see discussion under Clause 39 in this report).



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<i>Floor Ratio</i>	<i>Space</i>	Test the desired built form outcome against proposed floor space ratio to ensure consistency with: - building height - building footprint - the three dimensional building envelope - Open space requirements.	N/A There is no maximum FSR for the site.
PART 02 SITE DESIGN			
Site Configuration			
<i>Deep Soil Zones</i>		A minimum of 25 percent of the open space area of a site should be a deep soil zone; more is desirable. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the residential flat building.	YES The proposed development complies with the minimum landscaped open space requirement. It is therefore considered that an adequate area is available for deep soil planting.
<i>Open Space</i>		The area of communal open space required should generally be at least between 25 and 30 percent of the site area. Larger sites and brownfield sites may have potential for more than 30 percent.	YES An area of communal space is not required by WLEP 2000. A large internal courtyard, which includes a water feature, landscaped and pebble areas has been provided. The courtyard also includes seating areas. It is considered that the internal courtyard is acceptable as it provides a high level of visual amenity within the development for future occupants.
		The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park, is 25m ² ; the minimum preferred dimension in one direction is 4 metres. (see Balconies for other private open space requirements)	YES Units 1, 2, 3, 4, 8 and 9 have a balcony. Units 4, 5, and 6 have private courtyard, which is fenced off for the purposes of providing private open space. All of the units will also have access to a courtyard. The provision of the courtyard increases the housing choice available within the development. The area of private open space available to each ground floor unit is considered satisfactory.
<i>Planting on Structures</i>		In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes: Medium trees (8 metre canopy diameter at maturity) - minimum soil volume 35 cubic metres - minimum soil depth 1 metre - approximate soil area 6 metre x 6 metre or equivalent	YES Section BB shows that the depth of the planter over the basement has a depth of 1 metre, which is considered satisfactory to support small to medium sized trees.
<i>Safety</i>		Carry out a formal crime risk assessment for all	Not Applicable to this development.

	residential developments of more than 20 new dwellings.	
<i>Visual Privacy</i>	Refer to Building Separation minimum standards	YES The privacy of the adjoining residential developments to the north and west has been minimised as a result of the amended design. The reduction of part of Unit 9 to single storey has further enhanced the privacy of the adjoining property at No.160 Fisher Road. The spatial separation provided between the proposed development and the adjoining residents is considered to be satisfactory.
<i>Pedestrian Access</i>	Identify the access requirements from the street or car parking area to the apartment entrance.	YES Defined pedestrian entries are proposed from the street.
	Follow the accessibility standard set out in Australian Standard AS 1428 (parts 1 and 2), as a minimum. Provide barrier free access to at least 20 percent of dwellings in the development.	YES A lift has been provided from the basement to each level of the development (with exception of upper most residential floor)
<i>Vehicle Access</i>	Generally limit the width of driveways to a maximum of six metres.	YES Council' Traffic Engineer has reviewed the proposal and has raised no objections to the width of the driveway.
	Locate vehicle entries away from main pedestrian entries and on secondary frontages.	YES The vehicular entry to the basement is separated from the closest pedestrian entry by 4.2m.
PART 03 BUILDING DESIGN		
Building Configuration		
<i>Apartment layout</i>	Single-aspect apartments should be limited in depth to 8 metres from a window.	YES There are no units with the single aspect.
	The back of a kitchen should be no more than 8 metres from a window.	YES The back of all kitchens within the development are generally within 8 metres of a window.
	The width of cross-over or cross-through apartments over 15 metres deep should be 4 metres or greater to avoid deep narrow apartment layouts.	YES The minimum width of the crossover apartments within the development is approximately 4.5m.
	If council chooses to standardise apartment sizes, a range of sizes that do not exclude affordable housing should be used. As a guide, the Affordable Housing Service suggest the following minimum apartment sizes, which can contribute to housing affordability: (apartment size is only one factor influencing affordability)	Not applicable

	- 1 bedroom apartment 50m² - 2 bedroom apartment 70m² - 3 bedroom apartment 95m²	
<i>Apartment Mix</i>		
<i>Balconies</i>	Provide primary balconies for all apartments with a minimum depth of 2 metres. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	YES All balconies have a minimum depth of 2.5m as required by WLEP 2000.
<i>Ceiling Heights</i>	The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level (FCL). These are minimums only and do not preclude higher ceilings, if desired. - in residential flat buildings or other residential floors in mixed use buildings: - in general, 2.7 metre minimum for all habitable rooms on all floors, 2.4 metres is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. - for two storey units, 2.4 metre minimum for second storey if 50 percent or more of the apartment has 2.7 metre minimum ceiling heights	YES All habitable rooms have a floor to ceiling height of 2.7m. The floor to ceiling height of all bathrooms and laundries is 2.4m.
<i>Ground Floor Apartments</i>	Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.	YES Units 5, 6 and 7 fronting Crawa Road are provided with their own private access point from the street.
	Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	YES A number of ground floor apartments have access to a garden or terrace. The additional private open space provided to these apartments creates diversity in the variety of apartments within the development and therefore increases housing choice.
<i>Internal Circulation</i>	In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: - for adaptive reuse buildings - where developments can demonstrate the achievement of the desired streetscape character and entry response - where developments can demonstrate a high level of amenity for common lobbies, corridors and units, (cross over, dual aspect apartments).	Not applicable to this development.
<i>Storage</i>	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments 6m³ - one-bedroom apartments 6m³ - two-bedroom apartments 8m³	YES A sufficient storage space has been provided for the residential component of the development.



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	- three plus bedroom apartments 10m3	
Building Amenity		
<i>Daylight Access</i>	Living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	YES A detailed solar access study has been submitted with the application. The study demonstrates that all of the units will receive solar access to both 50% of their private open space and window to the main living area between 9am and 3pm mid winter.
	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).	YES Only 3 units within the development are south facing but has dual aspect and therefore considered to be satisfactory.
<i>Natural Ventilation</i>	Building depths, which support natural ventilation typically range from 10 to 18 metres.	YES The building depth is generally between 10-18 metres. All of units are dual aspect or cross through apartments and therefore adequate natural ventilation has been achieved.
	Sixty percent (60%) of residential units should be naturally cross ventilated.	YES All units have dual aspect.
Building Performance		
<i>Waste Management</i>	Supply waste management plans as part of the development application submission as per the NSW Waste Board.	YES A Waste Management Plan has been submitted with the application.
<i>Water Conservation</i>	Rainwater is not to be collected from roofs coated with lead- or bitumen-based paints, or from asbestos- cement roofs. Normal guttering is sufficient for water collections provided that it is kept clear of leaves and debris.	YES The proposed development is satisfactory in this regard.

Regional Environmental Plans

There are no Regional Environmental Plans which are relevant to this application.

Warringah Local Environmental Plan 2000

Desired Future Character

The site is located within the E2 Dee Why Lagoon Locality as identified under WLEP 2000. The Desired Future Character Statement for this locality is as follows:

This locality will remain characterised by detached style housing and a small pocket of apartment development in landscaped settings interspersed by a range of complementary and compatible uses. The development of further apartment buildings within the locality will be confined to the "medium density areas" shown on the map.



The land occupied by the Dee Why Bowling Club at Lot 32 DP 868310, land occupied by the Manly Warringah Soccer Club at Lot 9 DP 793604 and land occupied by the Evergreen Tennis Centre at Lot 61 DP 611195 will continue to be used only as recreation facilities.

Outside the “medium density areas” future development will maintain the visual pattern and predominant scale of existing detached housing in the locality. The street will continue to be characterised by landscaped front gardens and consistent front building setbacks. Unless exemptions are made to the housing density standard in this locality statement, any subdivision of land is to be consistent with the predominant pattern, size and configuration of existing allotments in the locality.

The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops, remnant bushland and natural watercourses will be preserved. Development on hillsides or in the vicinity of ridgetops must integrate with the natural landscape and topography. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.

The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.

The proposed development is defined as ‘housing’ and retail premises – being defined as ‘shops, business premises and restaurants’ under the WLEP 2000 dictionary.

The subject site is identified as being in the Local Retail Centre. The E2 Dee Why Lagoon Suburbs locality identifies ‘housing’ (not at ground floor) and the retail tenancies being shops, and business premises as **Category 1** Development.

As the applicant proposes the construction of dwellings at ground floor level the ‘housing’ is identified as **Category 2** development under ‘other buildings, works, places or land uses that are not prohibited or in Category 1 or 3’.

Clause 12(3)(a) provides that the consent authority must consider Category 1 development against the localities Desired Future Character, whilst Clause 12(3)(b) provides that Category 2 development must be consistent with the Desired Future Character Statement.

An assessment of the related components of the DFC has been undertaken as follows:

Requirement: *This locality will remain characterised by detached style housing and a small pocket of apartment development in landscaped settings interspersed by a range of complementary and compatible uses.*

Comment: This component of the DFC is not applicable to this development.

Requirement: *Outside the “medium density areas” future development will maintain the visual pattern and predominant scale of existing detached housing in the locality. The street will continue to be characterised by landscaped front gardens and consistent front building setbacks.*

Comment: This component of the DFC is not applicable to this development.



Requirement: *The spread of indigenous tree canopy will be enhanced where possible and natural landscape features, such as rock outcrops, remnant bushland and natural watercourses will be preserved. The use of materials that blend with the colours and textures of the natural landscape will be encouraged.*

Comment: The proposed development is not in the vicinity of any bushland and there are no significant indigenous trees located on the site which require protection. The site does not contain any unique landscape elements such as rock outcrops, bushland or natural watercourses.

A landscape plan has been submitted with the application that demonstrates that the development will enhance the landscape character of the site and provide a quality landscape setting for the proposed development that will provide a reasonable level of amenity for the occupants of the proposed development and the adjoining properties. The landscaping will also assist in softening the visual impact of the development as viewed from Fisher Road North and Carawa Road.

For these reasons the proposed development is considered to be consistent with this component of the desired future character statement.

Requirement: *The locality will continue to be served by the existing local retail centres in the areas shown on the map. Future development in these centres will be in accordance with the general principles of development control provided in clause 39.*

Comment: An assessment of Clause 39 has been provided under Clause 39 of the General Principles of this report. In summary, the proposal is considered to be in accordance with the requirements of Clause 39 despite the fact the proposal does not provide retail/commercial premises along the Carawa Road frontage.

Based on the assessment provided under Clause 39 of the General Principles, the proposed development is considered to be consistent with this component of the DFC.

Built Form Controls for E2 Dee Why Lagoon Suburbs Locality.

The following table outlines compliance with the Built Form Controls of the above locality statement:

Standard	Required	Proposed	Compliance
Housing Density	1 dwelling per 600sqm except in medium density areas, on land greater than 3000sqm, for housing for older people or people with a disability or for development within 'Local Retail Centres'.	Not applicable, as the subject site is located within a Local Retail Centre as such the exemption criteria within the Built Form Control apply.	Not applicable
Building Height Metres / Storeys	8.5m (top most point 7.2m (to ceiling))	8.8 metres 7.2 metres	No* YES
Front setback	6.5 metres except on corner allotments where the secondary frontage may be reduced to 3.5 metres.	Not applicable to this application pursuant to Clause 39 of WLEP 2000. Clause 39 stipulates that 'other Built Form Controls set out in locality statements which are not specifically	Not applicable



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		addressed to a local retail centre are not to be considered'.	
Rear Setback	Not applicable in local retail centre	Not applicable to this application pursuant to Clause 39 of WLEP 2000.	Not applicable
Side Setbacks	Not applicable in local retail centre	Not applicable to this application pursuant to Clause 39 of WLEP 2000.	Not applicable
Side Boundary Envelope	Not applicable in local retail centre	Not applicable to this application pursuant to Clause 39 of WLEP 2000.	Not applicable
Landscape Open Space	Not applicable in local retail centre	Not applicable to this application pursuant to Clause 39 of WLEP 2000.	Not applicable

(*) The non-compliance with building height is addressed below.

Clause 20 of WLEP 2000 states the following:

"Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State Environmental Planning Policy".

In assessing the non-complying elements of the proposal, an assessment must be undertaken in relation to consistency with the following:

- (a) *General Principles of Development Control.*
- (b) *Desired Future Character of the Locality.*
- (c) *Relevant State Environmental Planning Policies.*

In assessing the non-complying element of the proposal as illustrated in the above table, consideration has been given to the desired future character statement, general principles of development control and relevant state policies as detailed elsewhere in this report. In this regard, the proposal is considered to be consistent with these provisions under WLEP 2000 and accordingly the proposal qualifies to be considered for a variation to the development standard for building height under the provisions of Clause 20.

Building Height

The locality statement stipulates that buildings are not to exceed 8.5m in height where the height is the distance measured vertically between the topmost point of the building and the natural ground level (NGL) below.

The proposal generally complies with the 8.5m requirement above the NGL at almost all points, with a very minor exception where there is drop in the roofline. This result in minor increase to the maximum of 8.8m for the length of 2.1m above the NGL and therefore, the proposal results in a non-compliance with height requirement as stipulated in the relevant built form control.

The following objectives have been applied in the assessment of the building height control;

- *Ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment: It is considered that the area of non-compliance will have a negligible adverse impact upon the streetscape and surrounding locality as the variation sought is not uniformly applicable to the whole building and reflects the particular site circumstances, notably the drop in the floor level.

- *Preserve the amenity of surrounding land.*

Comment: The minor variation to the height control does not result in any adverse impacts on the adjoining properties. Adequate landscaped setbacks have been provided between the development on the subject site and developments on the adjoining sites to minimise the privacy, solar access and visual impacts of the proposed development.

- *Ensure that development responds to site to topography and minimises excavation of the natural landform.*

Comment: The development has been designed to 'step' down the site to minimise the extent of excavation required.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

Comment: The roof design of the development is considered to be reasonable and fits in within the topography of the site, the roof line has broken up to step in with the facade of the building.

Accordingly, the proposed building height is considered to be satisfactory with regard to Council's building height built form controls and therefore the minor variation is supported.

GENERAL PRINCIPLES OF DEVELOPMENT CONTROL

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan, 2000 are considered relevant to the consideration of the proposed development;

Principal	Applies	Comments	Compliant
CL38 Glare & reflection	YES	The applicant has submitted a schedule of external colours with the application. The overall proposed materials and finishes are considered to be satisfactory. The proposal requires the use of various building elements that have reflective qualities such as glass and metal. Accordingly, it is recommended that condition be included in the consent to ensure no unreasonable reflection occurs.	YES – subject to conditions
CL39 Local retail centres	YES	The subject site is identified as a Local Retail Centre. An assessment under Clause 39 is as follows: <i>"Local retail centres are to incorporate a range of small scale business uses at street level with offices or low-rise shop top housing (being housing not on the ground floor) above to create places with a village like atmosphere that provides a safe and comfortable environment for pedestrians and a range of business and</i>	NO



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Principal	Applies	Comments	Compliant
		<i>community uses meeting the needs of the surrounding area."</i> The proposed development provides residential dwellings at ground level adjoining Carawa Road rather commercial development. The applicant argues that this frontage is not appropriate for commercial type of development and that the surrounding residential property owners have expressed that they do not want commercial development on this frontage. In this regard a petition was submitted with the pervious application from the residents along the Carawa frontage and those adjacent to the subject site indicating that they were opposed to the expansion of the development to include retail/commercial premises along the Carawa Road. In regards to the absence of retail or commercial space at street level along Cawara Road, it is accepted that from an economically viable proposition and given that residents along Carawa Road are well served by existing local retail centres that the requirement for further retail space along Cawara Road would be unrealistic. Whilst strictly not being in accordance with the provision of Clause 39, it is considered that the proposed level of proposed commercial floor space (fronting Fisher North Road only) is considered to be satisfactory in meeting the needs of the surrounding area and therefore the proposal would not warrant a refusal on this basis alone. <i>"Development is to integrate with the established pattern of the centre and the continuity of the existing streetscapes is to be maintained."</i> The proposed development (as amended) achieves compliance with this component of Clause 39, in that the proposed building has height, built form and density that is considered to be consistent with the surrounding development. The proposed building has been designed to create a village – type atmosphere by the introduction of the landscaped forecourt at the intersection of Carawa and Fisher Road North. In this regard, the design of the building particularly along the Cawara Road frontage, integrates successfully with the existing streetscape as required by the DFC in relation to the local retail centre. In regards to the Fisher Road North facade, the proposed building has been designed so it's main for retail/commercial frontage to Fisher Road North and defines the intersection of Fisher Road and Cawara Road. The commercial/retail component of the building is positioned so that the passing traffic can readily identify the individual components that	



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Principal	Applies	Comments	Compliant
		form the local retail centre. For the above reasons, the proposal is considered to be acceptable in achieving compliance with this component of Clause 39 of WLEP 2000. “The building height in local retail centres is to accord with the height limit for the applicable locality, unless the locality statement provides otherwise.” The E2 – Why Lagoon Suburbs Locality allows development to a height of 8.5 metres. As discussed under the heading “WLEP 2000 – Built Form Controls - Building height”, the proposal involves a Clause 20 variation to the maximum building height. The issue relating to the non-compliance with the height control is detailed under the Clause 20 variation of this report. In summary, the variation sought is considered to be minor and has no significant impact on the adjoining development and on the locality in general. For the above reasons, the proposal is considered to be acceptable in achieving compliance with this component of Clause 39 of WLEP 2000. <i>“Development that adjoins residential land is not to reduce the amenity enjoyed by adjoining occupants. In this regard, the built form of development in the local retail centre is to provide a transition to adjacent residential development, including reasonable setbacks from side and rear boundaries, particularly at the first floor level.”</i> Clause 39 does not stipulate any minimum requirements other than the requirement that states <i>“that the development in respect of its built form should provide a transition to adjacent residential development including reasonable setback from side and rear boundaries, particularly at the first floor level”</i>. The proposed building has been setback from the adjoining residential property at No. 160 Fisher Road has a setback that varies from 4m to a maximum of 5.7m. It is considered that this setback, which is generally maintained along the side boundaries, is adequate to protect the amenity of the adjoining residential development in both Fisher Road North and in Carawa Road. In relation to the setback of the building to the adjoining residence at No. 6 Carawa Road, that setback is approximately 4m. This setback has been increased from the original application and considered to be adequate in protecting the amenity of the adjoining property. In respect of rear boundary setbacks, the proposal is in the order of 4m and this is considered	



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Principal	Applies	Comments	Compliant
		adequate to enable the amenity of the adjoining residential development to be maintained. It is considered that the proposed development will provide reasonable side and rear setbacks and therefore is considered to be satisfactory in relation to this component of Clause 39.	
CL40 Housing for Older People and People with Disabilities	NO	Not Applicable	N/A
CL41 Brothels	NO	Not Applicable	N/A
CL42 Construction Sites	YES	The proposed construction site does not unreasonably impact on the surrounding amenity, pedestrian or road safety, or the natural environment. Appropriate standard conditions would adequately address the construction requirements associated with the building works proposed on the site.	YES –subject to conditions
CL43 Noise	YES	The proposed apartments will generate domestic level noise only and will not result in unreasonable noise impacts. Further, the removal of the service station and car repair facilities from the site will produce a significant improvement in the locality in terms of the acoustic impacts, and the new development will only produce noise commensurate with normal residential expectations. The business premises are supported as they are within a local retail centre and located on the Fisher Road frontage, which has substantial physical separation from the surrounding residential allotments. Conditions are recommended in relation to minimising noise of the development during the construction phase.	YES –subject conditions
CL44 Pollutants	YES	The normal operation of the development will not result in the emission of atmospheric or other pollutants which would unreasonably diminish the amenity of adjacent properties.	YES
CL45 Hazardous Uses	NO	Not Applicable	N/A
CL46 Radiation Emission Levels	NO	Not Applicable	N/A
CL47 Flood Affected Land	NO	The site is not identified as flood affected	N/A
CL48 Potentially Contaminated Land	YES	Clause 48 states that the consent authority must not consent to the carrying out of development on land unless; - It has considered whether the land is contaminated, and - If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and - If the land requires remediation to be	YES – subject to conditions



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Principal	Applies	Comments	Compliant
		made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out. These issues have been addressed in detail under 'State Environmental Planning Policy No.55 - Remediation of Land' in this report. The site has been found to be suitable for the proposed use in its current state.	
CL49 Remediation of Contaminated Land	YES	As Above	YES – subject to conditions.
CL49a Acid Sulfate Soils	NO	Not Applicable	N/A
CL50 Safety & Security	YES	The proposal will not be detrimental to the safety and security of the locality. The building allows for casual surveillance and conditions relations to lighting to entry/exit areas are included in the consent.	YES – subject conditions.
CL 51 Front Fence and Walls	YES	Courtyard type walls (1.2m to 1.5m in height) are proposed to the private open spaces in Carawa Road. The designs of these walls are considered to be consistent with the streetscape. It is noted that there are numerous high and solid front fences on the front boundaries of residential properties surrounding the site in Carawa Road. In respect of the Fisher Road Facade, low courtyard – type walls are proposed, which facilitate planting and open metal railing over. The design of these walls contributes to maintaining a "Village –like atmosphere" with the local retail centre. Therefore, the proposed walls are compatible with other fencing in the streetscape.	YES
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	NO	The subject site does not adjoin any parks, Bushland reserve, or other public open space	N/A
CL53 Signs	NO	No signage is proposed. A condition has however been included on the draft consent to state that no signs are approved as part of this application and that any signage which does not fall under the exempt provisions of WLEP 2000 is to be the subject of a future development application.	N/A
CL54 Provision and Location of Utility Services	YES	The site is satisfactorily serviced with utility services including the provision for the supply of water, gas, telecommunications and electricity and the satisfactory management of sewage and drainage.	YES
CL55 Site Consolidation in 'Medium Density Areas'	NO	Not Applicable	N/A
CL56 Retaining Unique Environmental Features on Site	YES	The site does not contain any unique environmental features and the proposed landscaping will ensure sympathetic planting is provided on site.	YES
CL57 Development on	YES	The height and bulk of the development and extent	YES



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Principal	Applies	Comments	Compliant
Sloping Land		of cut and fill has been incorporated within the design to ensure the proposal is not visually dominant.	
CL58 Protection of Existing Flora	NO	The site is currently vacant and there is no vegetation on site. The proposed landscaping will ensure sympathetic planting is provided on site and is supported by Councils Landscape Officer.	N/A
CL59 Koala Habitat Protection	NO	Not Applicable	N/A
CL60 Watercourses & Aquatic Habitats	NO	Not Applicable	N/A
CL61 Views	YES	Clause 61 states that development is to allow for the reasonable sharing of views. Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views. No submissions have identified view loss as a concern. For these reasons it is considered that the proposed development is consistent with the provisions of Clause 61.	YES
CL62 Access to sunlight	YES	Clause 62 requires that development is not to unreasonably reduce sunlight to surrounding properties. In the case of housing, sunlight to at least 50% of the private open space of principal private open spaces is not to be reduced to less than 2 hours between 9am and 3pm on 21 June. Shadow diagrams submitted with the application indicate compliance with the above provisions.	YES
CL63 Landscaped Open Space	YES	The proposed development provides an adequate area of landscaped open space. The landscaped open space is of sufficient size and dimensions to enable the establishment of plantings that are of a scale and density commensurate with the building height, bulk and scale and that enhance the internal amenity of the development.	YES
CL63A Rear Building Setback	NO	Not Applicable	N/A
CL65 Privacy	YES	The proposal is located on a corner allotment with two (2) street frontages, which provides adequate physical separation from surrounding residential development. The design of the proposal provides for adequate setback to the adjoining residential development. The setbacks proposed are considered to be reasonable to avoid overlooking of surrounding residential premises. It is considered that the proposed development is consistent with the provisions of Clause 65.	YES
CL66 Building bulk	YES	Clause 66 states the following: <i>'Buildings are to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land and are not to visually dominate the street or surrounding spaces, unless</i>	YES



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Principal	Applies	Comments	Compliant
		<i>the applicable Locality Statement provides otherwise.</i> <i>In particular:</i> • <i>Side and rear setbacks are to be progressively increased as wall height increases,</i> • <i>Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief, and</i> • <i>Appropriate landscape plantings are to be provided to reduce the visual bulk of new buildings and works.'</i> The bulk and scale of the proposed development is considered to be acceptable for the following reasons; • The bulk and scale of the proposal is consistent with that which is to be expected from a locality with built form controls permitting buildings with a height of 8.5 metres and no controls for setbacks and side boundary envelopes and landscaped open space. • Adequate setback is proposed to the west and northwest to protect the amenity of the adjoining residential development both in Fisher Road North and in Carawa Road. • A variety of architectural elements have been incorporated into the design to provide visual interest such as pergolas, balconies and varied materials. • The bulk and scale of the development is consistent with the bulk and scale of other shop top housing within the Warringah area. For the above reasons, the proposed development is considered to be consistent with Clause 66.	
CL67 Roofs	YES	The proposed roof form will complement the local skyline and is integral to the style of the building.	YES
CL68 Conservation of Energy and Water	YES	A BASIX Certificate (Certificate number 41455877) has been submitted with the application. The development achieves the target for water, thermal comfort and energy use. If the application is approved conditions of consent will be required to ensure compliance with the BASIX commitments specified on the certificate. Conditions have been included on the draft consent to ensure the commitments identified on the BASIX certificate are implemented.	YES
CL69 Accessibility – Public and Semi-Public Buildings	YES	A Disability Access Report (prepared Carroll Consulting Practice Pty Ltd, dated November 2008) has been submitted with the application.	YES – subject to conditions

Principal	Applies	Comments	Compliant
		The report states that: <i>"All of the residential apartments have individual access from the main central courtyard, which is accessible with no steps from Carawa Road. The residential commercial entrances are well separated, being on different sides of the building and different streets.</i> <i>Carparking is below ground at basement level with vehicle access from Fisher Road North and access from the basement to lower ground floor and upper ground floor levels by lift.</i> <i>All four commercial spaces are fully accessible, with no barriers, from the ground level at Fisher Road North. Five of the residential apartments out of the total nine are accessible, with no barriers, from ground level, four are accessible from the main central courtyard and unit 8 is accessible from Carawa Road. Unit 7 is accessible, with no steps from Carawa Road as well the courtyard".</i> Based on the advice of the Access Report, the proposal is considered to comply with the requirements of Clause 69. It is recommended conditions relating to providing compliance with AS 1428.2 should be incorporated into the draft consent.	
CL70 Site facilities	YES	The site contains adequate space for general waste and recycling storage and is therefore considered acceptable in this regard.	YES
CL71 Parking facilities (visual impact)	YES	Clause 71 requires that car-parking facilities are to be sited and designed so as not to dominate the street frontage or other public spaces. The development incorporates a basement parking level and therefore, the visual impact of the parking facility is minimised when viewed from the street.	YES
CL72 Traffic access & safety	YES	The traffic consultants commissioned to assess the traffic and parking implications of the proposed development have assessed the impact of the additional traffic generation on Fisher Road North and Carawa Road and concluded that the proposal will not have an unacceptable impact on the traffic flows in the area. Council's Traffic Engineer has reviewed the proposal and raised no objection to the proposal on traffic grounds and also in relation to the location of the driveway.	YES
CL73 On-site Loading and Unloading	YES	Loading facilities have been provided within the basement carpark. The proposed loading bay location and arrangement are considered to be satisfactory and will enable service vehicles to manoeuvre onsite and to enter and leave the basement carparking in a forward direction.	YES
CL74 Provision of Car parking	YES	Clause 74 requires that adequate off-street car parking is to be provided to serve a development and that the application must be assessed against	YES



Warringah Council

Principal	Applies	Comments	Compliant
		the provisions of Schedule 17. Assessment under the provisions of Schedule 17 Schedule 17 provides that car parking for the proposed development shall be calculated at a rate of: <u>Apartment Units</u> 1 space Per 1 bedroom unit 1.2 spaces per 2 bedroom unit 1.5 spaces per 3 bedroom unit 1 visitor space per 5 units or part of the units <u>Office and Business/retail space</u> 1 space per 40sqm of Gross Floor Area (GFA). The calculation undertaken during the assessment has indicated that a total 12.8 spaces are required for the residential component (including 2 visitors' spaces for 9 units). And a total of 6.6 spaces for the retail/business and office component of the development. Therefore, a total of 21 spaces are required. The development provides a total of 25 parking spaces in the basement level carparking. In addition to the 25 spaces, two (2) additional spaces are also provided for loading and unloading, which can be also used for visitors spaces during the weekend and outside the business hours. The proposed development exceeds the numerical requirements detailed under Schedule 17.	
CL75 Design of Car parking Areas	YES	Clause 75 requires that car parking is to: • <i>avoid the use of mechanical car stacking devices;</i> • <i>not be readily apparent from public spaces;</i> • <i>provide safe and convenient pedestrian and traffic movement;</i> • <i>include adequate provision for maneuvering and convenient access to individual spaces;</i> • <i>where possible, enable vehicles to enter and leave the site in a forward direction;</i> • <i>incorporate unobstructed access to visitor parking spaces;</i> • <i>be landscaped to shade parked vehicles, screen them from public view, assist in micro-climate management and create attractive and pleasant spaces;</i> • <i>provide on-site detention of stormwater where appropriate; and</i> • <i>make reasonable provision for the car parking needs of people with physical disabilities.</i>	YES



Warringah Council

Principal	Applies	Comments	Compliant
		The design of carparking areas is assessed in the applicant's assessment of Traffic and Parking report by TMPC Traffic & Mobility Planning Consultant as being in compliance with WLEP 2000 and AS 2890.1:2004. The proposed development complies with the requirement that car parking and is to be readily apparent from public places. It is further considered that the proposal will provide for safe pedestrian movement and therefore satisfies the requirements of this General Principle.	
CL76 Management of Stormwater	YES	Council's Development Engineers have reviewed the proposal and amended plans and raised no objections subject to a number of conditions being included on the consent. All recommended conditions have been included on the attached draft consent (with the exception of dewatering conditions which have been provided by the Department of Water and Energy).	YES – subject to conditions.
CL77 Landfill	No	Not applicable	N/A
CL78 Erosion & Sedimentation	YES	The development is to be sited and designed and related construction work carried out, so as to minimise the potential for soil erosion. Appropriate conditions associated with management of erosion and sedimentation for the duration of works on the site.	YES-subject to conditions
CL79 Heritage Control	NO	The site is not identified as a heritage item nor is it located within a conservation area.	N/A
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	NO	Not applicable	N/A
CL81 Notice to Heritage Council	NO	Not applicable	N/A
CL82 Development in the Vicinity of Heritage Items	NO	Not applicable	N/A
CL83 Development of Known or Potential Archaeological Sites	NO	The subject site is not located within the vicinity of any known or potential archaeological sites.	N/A

SCHEDULES

Schedule 8 - Site Analysis

Adequate site analysis documentation has been provided with this application.

Schedule 17 – Carparking Provision

For further details please refer to 'Clause 74 Provision of car parking' in the General Principles of Development Control table in this report. In summary, a satisfactory number of carparking spaces have been provided.



POLICY CONTROLS

Warringah Section 94A Development Contributions Plan

The proposed development is subject to the provisions of Section 94A of the EP&A Act and the provisions of the Warringah Section 94A Development Contribution Plan. The applicable contributions are outlined within the table below. If the application is approved a condition should be included on the consent to ensure the required contributions are paid prior to the issue of the Construction Certificate.

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		2,490,900.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$23,664	6923
S94A Planning and Administration	0.05%	\$1,245	6924
Total	1.0%	\$24,909	

MEDIATION

Mediation was not requested for this development application.

CONCLUSION

The site has been inspected and the application assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy No.65- Residential Flat Development , Warringah Local Environmental Plan 2000, Warringah Development Control Plan and the relevant codes and policies of Council.

The proposed development has been found to be consistent with the design quality principles of State Environmental Planning Policy No. 65 and the 'Rules of Thumb' in the Residential Flat Design Code. The development has also been found to be consistent with the desired future character statement for the E2 – Dee Why Lagoon Suburbs as it provides housing and business premises consistent with a local retail centre.

In relation to the built form control, the proposal fails to achieve strict compliance with the Building height requirements, however, it is considered that the variation is minor and will have no adverse impact on the adjoining residential development or the streetscape.

The proposed development is generally consistent with the general principles of development control, with the exception of Clause 39 as the development does not provide retail/commercial premises on the ground floor level fronting Carawa Road. In regards to the absence of retail or commercial space at street level along Cawara Road, it is accepted that from an economic viability proposition it would be unrealistic to require the provision of retail space along this street frontage, as it is on the less traffic secondary frontage, the quantum of the retail space already provided to Fisher Road North is sufficient to ensure the viability of the local retail centre is well served.



One submission has been received from the owner's of the adjoining property in Fisher Road North. The issues raised in the submission relate primarily to the design of the building and the implications of the development on traffic safety on Fisher Road North. The issues raised in the submission have been addressed in the notification of this report do not warrant the refusal of the application.

Whilst the proposed development is not considered to be of a particularly high standard of architecture and urban design, it is nevertheless a development which satisfactorily addresses the planning controls under WLEP 2000 and SEPP 65. It needs to be noted that the current design is significantly better than the original development application in terms of building bulk, transitional design to the adjoining residential properties, internal amenity to the central courtyard of the development, streetscape presentation and in terms of the height and scale in the western portion of the development.

On balance, the application is supported in its current form, notwithstanding more amendments could have been sought from the applicant in terms of the architectural standard, the quality of external finishes and the general presentation of the development. Therefore, based on the fact that the final design addresses the fundamental shortcomings of the original scheme and satisfies the planning controls under WLEP 2000 and SEPP 65, the proposal is recommended for approval subject to conditions.

RECOMMENDATION (APPROVAL)

- A. That Development Application No. DA2008/1704 for the mixed use development comprising residential and commercial units, basement carparking, landscaping and ancillary site works at Lot 15, DP 11438 and Lot 16, DP 11438, No. 2 Carawa Road, Cromer be approved subject to the attached conditions.
- B. That pursuant to Section 95(2) of the Environmental Planning Assessment Act 1979, the Council vary the provisions of Section 95(1) so this consent will lapse three (3) years from the date in which it operates, and the applicant be advised accordingly.

Signed

Date

Lashta Haidari, Senior Development Assessment Officer

Signed

Date

Steve Findlay, Team Leader Development Assessment